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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/532,476 03/22/00 TRAMPOSCH

W 00-069

EXAMINER

QM32/1107

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ART UNIT

PAPER NUMBER

3721

DATE MAILED:

11/07/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/532,476

Applicant(s)

TRAMOSCH, WALTER GEORGE

Examiner

Stephen F. Gerrity

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3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Drawings***

1. Please note the attached Notice of Draftsperson's Patent Drawing Review (Substitute Form PTO-948) regarding the drawings filed 22 March 2000.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the use of the phrase "preferably selected" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-3, 9, 11, 12 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Herring (US patent 1939497).

6. Claims 1-3, 9-12 and 14 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Franey et al. (US patent 5154886).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-6, 8, 13, 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Herring or Franey et al. in view of Solberg (US patent 2151053).

Regarding claim 4, either one of Herring or Franey et al. meets applicant's claimed subject matter with the exception of the adsorbent being selected from the group consisting of activated carbon, natural and synthetic zeolite, silica gel, activated alumina, and mixtures thereof. The patent to Solberg discloses that it is old and well known in the art to make use of activated carbon granules (see col. 2, lines 1-8) to prevent tarnish. It would have been obvious to a person having ordinary skill in the art, at the time

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applicant's invention was made, to have modified the apparatus for preventing tarnish of either one of Herring or Franey et al. by having substituted activated carbon granules, as taught by Solberg, for the chemical(s) used in either one of Herring or Franey et al., in order to prevent tarnish, as both Herring or Franey et al. suggest that other chemical(s) to prevent tarnish may be used.

Regarding claims 5 and 13, the patent to Solberg discloses the use of granules of activated carbon and to have modified either one of the Herring or Franey et al. devices for preventing tarnish by disposing the activated carbon granules within a flexible fibrous matrix would have been obvious to a person having ordinary skill in the art, in order to permit the gases which cause tarnish formation to freely come in contact with the activated carbon.

Regarding claim 6, the patent to Solberg discloses that the activated carbon (14) is located within a container (5) on a tray (4) to permit removal of the activated carbon. It would have been obvious to a person having ordinary skill in the art, at the time applicant's invention was made, to have modified either one of the Herring or Franey et al. devices for preventing tarnish by having the activated carbon be removably attached to the interior surface of the enclosure, as suggested by Solberg, in order to permit removal of the activated carbon for its renewal and reuse.

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Regarding claims 8, 15 and 16, the patent to Solberg discloses (col. 3, lines 3-6) that from time to time the activated carbon can be removed and renewed to provide a reactivated quantity of material. The particular technique of reactivation is not discussed. However, it would have been obvious to a person having ordinary skill in the art to have further modified either one of the Herring or Franey et al. devices for preventing tarnish by having permitted removal of the activated carbon for its reactivation by being washed with solvent and subsequently heated to a temperature less than about 350 C to restore the activated carbon, since applicant has not disclosed that this particular technique of reactivating the material solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other techniques for reactivating the material.

***Allowable Subject Matter***

**9.** Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

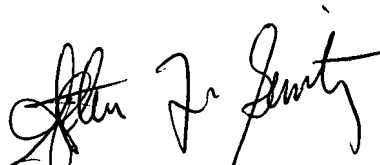
***Conclusion***

**10.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Moss, Naken, Rosenbaum, Jennings,

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and Sinclair patents are cited to show methods and devices for preventing tarnish.

**11.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Stephen Gerrity**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Rinaldi Rada**, may be contacted. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group 3720** receptionist.



**Stephen F. Gerrity**  
**Primary Examiner**  
**Art Unit 3721**

Examiner's Telephone Number:	(703) 308-1279
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